IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 3246 of 2005

Between:

Abburi Singaiah, S/o. Ramanaiah,
R/o. Basavanapalem, Maddipadu Mandal, Prakasam District.

..... PETITIONER

AND

The Commissioner of Intermediate Education, A.P., Hyderabad

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction especially one in the nature of writ of mandamus declaring the impugned orders of the respondent in RC.No. Admn.1-5-1239/2003, dt. 26-3-2003 and the consequential order dt. 6-2-2004 issued by the Commissioner of Intermediate Education, Hyderabad, A.P. as illegal, arbitrary, without jurisdiction, opposed to principles of natural justice and null and void.

Counsel for the Petitioner:MR.MOVVA.CHANDRASHEKAR RAO

Counsel for the Respondent No.: GP FOR HIGHER EDUCATION

The Court made the following :

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O R D E R:

Proceedings of the respondent in

Rc.No.Admn.-1-5/1259/2003, dated 26-3-2003 are the subject matter of this petition.

2 . The case of the petitioner is that he is the Secretary and Correspondent of V.V.M.Degree and Junior Colleges at Ongole and was recognized as such by the Director of the Higher Education. Since the term of office of the office bearers of the Managing Committee is to expire by 31.7.2002 he convened a meeting on 29-2-2002 for election of the new office bearers of the Managing Committee for the period 1.8.2002 to 31.07.2007 and accordingly elections were held on 29-7-2002, whereat he was unanimously elected as Secretary and Correspondent for the period from 1-8-2002 to 31-7-2007 and proceedings of the said elections were published in news papers and also were communicated to the respondent, and accordingly respondent recognized him as Secretary and Correspondent and was corresponding with him. Till January 2003 he was sending the monthly pay bills of the teachers with his and the college principals' signatures and the counter signature of the Principal of D.S.Government College for Women, Ongole as per Rules. But, for reasons unknown to him, by the proceedings impugned in this petition, while eliminating him from signing the pay bills of the junior college respondent authorized the principal of Junior college only to sign and submit the pay bills with the counter signature of the District Vocational Education Officer, Guntur, though he is not authorized to do so.

3. Respondent filed his counter affidavit alleging that after disputes arose between the member of the groups headed by the petitioner and S.Bhaskar Rao, each group claimed their own governing body members, resulting in filing of suits in Civil Court, and since both groups requested the Director, Collegiate Education and Director of Intermediate Education to approve their Secretary and Correspondent-ship the Director of Collegiate Education, having found discrepancies in the number of members claimed by the groups, came to a *prima facie* conclusion that there is a dispute regarding Correspondence-ship and asked the Regional Joint Director of Collegiate Education, Guntur to find out the factual position, and after receiving a report that there are allegations of misuse of college funds by the petitioner, directed the Principal, Government Degree College for Woman, Ongole, in place of the petitioner, to countersign the salary bills of the staff of the Degree College. Questioning the said order petitioner filed W.P.No.18836 of 2003. By the order dated 24-10-2003 in W.P.MP.NO.23546 of 2003 in that W.P this Court suspended operation of those proceedings M.Ramanaiah, Secretary, V.V.& M College Non-Teaching Staff Association, impleaded himself as a party, to that W.P. and sought vacation of the order of suspension of the proceedings, whereupon a modified order

directing the Principal of DS Government College for Women to countersign the bills along with the petitioner, pending further orders was passed. There after representations from the Unit Secretary of V.V. & M Junior College, Ongole, and District President of the Junior Colleges Association, Prakasam District, relating to the misuse of funds of the college by the petitioner were received and so he passed the impugned proceedings directing the District Vocational Education Officer, Guntur, to be drawing and disbursing officer temporarily, instead of the Correspondent of Junior College signing the pay bills prepared and submitted by the Principal of the College, till further orders, as the lecturers were not paid their salaries for January and February-2003, with a view to obviate the hard-ship of the staff, since those orders are in force from about two years, inasmuch as the petitioner, who filed two unit petitions questioning other proceedings, did not choose to question the impugned proceedings. Since the petitioner pressurized the District Vocational Education Officer, not to countersign the pay bills submitted to him by the Principal of the College, members of the staff could not get their salaries for three months. The Director of Collegiate Education appointed a Committee, to resolve the dispute between the two warring groups fighting for management of the college.

4. The contention of the learned counsel for the petitioner is that since the fact that two institutions are being run by the same management is admitted, and since the petitioner is permitted to sign the pay bills in respect of the Degree College, respondent who has no role to play and who need not 'recognise' the correspondent-ship of a person as per Section 24 (2) of the A.P Education Act, 1982, respondent directing the District Vocational Education Officer to sign the salary bills in place of the petitioner is unsustainable. He placed reliance on **G.J.R. Sunand Vs. Convention of Baptist Churches of Northern Circars' (CBCBC)** where it is observed as follows:

> *"There is no provision in the Act, which enables the competent authority to recognize any person as Convener. There is no dispute before us that the Convener of the Education Committee appoints the Correspondents in respect of each of the institution under the management of the Convention and accordingly intimates the same to the competent authority as is required under Section 24 of the Act. Obviously, the Convener exercises the power of 'Management' in this regard. There is nothing on record to suggest that the appellant herein himself has been acting as the Correspondent of all the Educational Institutions that are under the management of the Convention."*

5. The contention of the learned Government Pleader is that petitioner is not entitled to any relief at this stage since he failed to question the proceedings impugned for about two years, though he questioned similar proceedings issued in respect of the other institution under the same management and acquired the impugned order. It is her contention that since there are several complaints against the petitioner, and since a Division Bench of this Court while disposing of the W.P.No.18836 of 2003 and 3450 of 2004 filed by the petitioner gave directions to complete the enquiry expeditiously there are no grounds to interfere into the impugned order.

6. In reply, the contention of the leaned counsel for the petitioner is that in view of the memo in RC.No. Admn.1-5-1239/2003, dt. 26-3-2003, issued to the petitioner reading

> *"In this connection he is informed that the Unit Secretary, Junior College Lecturers Association of V.V. & M Junior College, Ongole in his letter 2nd read above has represented that the District Vocational Education Officer, Guntur has not counter signing the salary bills of the Staff of the college for unknown reasons----------".*

the allegation that petitioner is misusing the funds of the institution cannot be true and the contention that petitioner has been pressurizing the District Vocational Education Officer not to countersign the salary bills is not and cannot be correct, since petitioner himself has been signing the salary bills of the Degree College, and the same procedure can be made applicable to the petitioner in respect of the Junior College also.

7. The same society, admittedly, is running a Degree College and Junior College. In respect of the Degree College also, when a similar order, as the one impugned in this petition, was passed petitioner filed W.P.No.18836 of 2003 questioning the same. In W.P.M.P.No.23546 of 2003 filed therein a learned single Judge granted interim suspension of the order passed in respect of the Degree College. After the rival groups impleaded themselves as parties and filed vacate stay petitions a learned judge by his order dated 9-2-2004 in W.V.M.P.Nos.3821 of 2003 & 481 of 2004 in W.P.M.P.No.23456 of 2003 in W.P.No.18836 of 2003 passed the following order:

"The Petitioner claims to be the secretary and correspondent of VV& M Degree and Junior College, Ongole. The Commissioner of Collegiate Education, Respondent herein, has passed order dated 28-3-2003, based on the representation submitted the Principal, D.S. Government College for Women, Ongole, to countersign the bills submitted by the Principal, V.V. & M College, Ongole. As the said order, prima facie, is passed without notice to the petitioner and excluding the petitioner's requirement to countersign the bills, this court by order dated 24-10-2003 suspended the same, pending further orders.

Now impleaded as a parties have filed vacate stay petitions on the ground that salaries are not being to the staff members, as the Principal D.S. Government College for Women is not counter signing the bills. In view of the same, the interim order dated 24-10-2003 is modified permitting the Principal D.S. Government College for Women to countersign the bills along with the petitioner. Pending further orders."

Subsequently, both the writ petitions were heard and disposed of by common order by a Division Bench on 5-7-2004, observing:

"In view of the fact that the committee has already been constituted and report is awaited, we are of the view that while making the order passed on 9-2-2003 in W.V.M.P.Nos.3821 of 2003 and 481 of 2004, and WP.MP.No.23456 of 2003 in W.P.No.18836 of 2003 final till appropriate decision is taken by the Director of Collegiate Education in the matter on the issue before him, we will dispose of the Writ Petitions with a direction that the Director of Collegiate Education will proceed and pass appropriate orders considering the report of the committee constituted by him for enquiring into the various allegations against the management and the Director of Collegiate Education will ensure that the committee constituted by him would expedite submission of report by fixing time schedule to submit the report and that he takes an appropriate decision thereupon after hearing the rival groups within a period of one month from the date of receipt of the report. In addition to that, the Director of Collegiate Education will also act upon the enquiry report obtained by him on the alleged misuse of college and committee funds and misuse of powers by the then correspondent. On that report also, he should simultaneously take appropriate action as deemed fit and proper by him within the same time."

8. In view of the above order of the Division Bench and since petitioner did not choose to question the impugned order for nearly two years, I do not want to disturb

the status-quo since considerable time elapsed after the order of the Division Bench.

9. I dispose of this writ petition with a direction to the respondent to issue directions to the committee constituted by the Director of Collegiate Education to submit its report, and take action thereon, as directed by the Division Bench in its order dated 5-7-2004, as expeditiously as possible, at any rate, before the end of September, 2005.

10. The Writ Petition is disposed of accordingly. No costs.

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13th April, 2005.

mrb

To

1. The Commissioner,

   Board of Intermediate Education, A.P., Hyderabad.

2. Two CCs to G.P for Higher Education, A.P High Court Buildings, Hyderabad.

3. Two CD copies.